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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

KOU CHANG,

Defendant and Appellant.

F055462

(Super. Ct. No. F06907080)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Gary R. Orozoco, Judge.

S. Lynne Klein, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

-ooOoo-

*Before Vartabedian, Acting P.J., Wiseman, J., and Levy, J.

The first amended information alleged that (i) appellant committed two murders (Pen. Code, § 187, subd. (a)--counts 1, 2)¹ and one attempted murder (§§ 187, subd. (a), 664--count 3); (ii) appellant committed the two murders by means of lying in wait (§ 190.2, subd. (a)(15)); (iii) appellant killed the victims while he was an active participant in a criminal street gang, and the murders were carried out to further the activities of the gang (§ 190.2, subd. (a)(22)); (iv) appellant was convicted of multiple murders in the instant proceeding (§ 190.2, subd. (a)(3)); (v) a principal in the commission of counts 1 and 2 personally and intentionally discharged a firearm resulting in the death of the victims within the meaning of subdivision (d) and former subdivision (e)(1) of section 12022.53; (vi) a principal in the commission of count 3 personally and intentionally discharged a firearm resulting in great bodily injury to the victim within the meaning of subdivision (d) and former subdivision (e)(1) of section 12022.53; (vii) a principal in the commission of counts 1-3 personally and intentionally discharged a firearm within the meaning of subdivision (c) and former subdivision (e)(1) of section 12022.53; and (viii) appellant committed the instant offenses for the benefit of, at the direction of or in association with a criminal street gang, with the specific intent to promote, further or assist in criminal conduct by gang members (§ 186.22, subd. (b)).

On March 13, 2008, pursuant to a plea agreement, appellant pled no contest to one count of first degree murder, and the court dismissed the other charges and the enhancement, strike and special circumstance allegations.

On May 30, 2008, appellant's motions for substitution of counsel and to withdraw his plea were denied, and he was sentenced to 25 years to life in prison.

A certificate of probable cause was not issued (§ 1237.5).

¹ All statutory references are to the Penal Code.

Appellant's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d. 436.) Appellant has not responded to this court's invitation to submit additional briefing.

FACTS²

On March 16, 2006, at approximately 9:31 p.m., police made contact with a shooting victim (Victim 3), who was lying in the roadway. Victim 3 told officers the following. He had been at a park, playing basketball. After he finished playing, he got into a car with his brother (Victim 1) and another person (Victim 2). They drove to Victim 3's residence where "five Asian male subjects approached them and began to fire multiple shots." Victim 3 identified the assailants as "'ORB,' a known Asian gang in the area."

Victim 3 was transported to a hospital for treatment. Victims 1 and 2 died as a result of multiple gunshot wounds.

"After investigating several gang members, officers were informed that [appellant] was involved in this homicide." Thereafter, while executing a search warrant at a residence, the officers made contact with appellant. In the residence, officers found an identification card belonging to appellant, a shot gun, some shotgun ammunition and nine letters addressed to appellant. Some of the letters found "had gang related writing." Officers arrested appellant on a probation violation, and appellant "ultimately confessed to being involved in the double homicide."

At the time appellant entered his plea, defense counsel told the court the following: "[Appellant pled to one count of murder] as an accomplice. He did not have personal use of a ... firearm, but he was involved and did help and did know" The

² Our factual summary is taken from the report of the probation officer.

prosecutor confirmed “that that is reflected in the police reports, as well as the preliminary hearing”

DISCUSSION

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

The judgment is affirmed.